

Translation

PATENT COOPERATION TREATY

PCT/EP2003/010819



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P801139/WO/1	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/010819	International filing date (<i>day/month/year</i>) 30 September 2003 (30.09.2003)	Priority date (<i>day/month/year</i>) 24 October 2002 (24.10.2002)
International Patent Classification (IPC) or national classification and IPC E05F 5/06		
Applicant DAIMLERCHRYSLER AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 3 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 24 January 2004 (24.01.2004)	Date of completion of this report 17 March 2005 (17.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/010819

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages _____ 1-8 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____ 1-7 _____, filed with the letter of 23 December 2004 (23.12.2004)
- ☒ the drawings:
 pages _____ 1/2-2/2 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
/EP 03/10819

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	3 - 7	YES
	Claims	1, 2	NO
Inventive step (IS)	Claims		YES
	Claims	1 - 7	NO
Industrial applicability (IA)	Claims	1 - 7	YES
	Claims		NO

2. Citations and explanations

1.1 Reference is made to the following documents:

- D1: US-B-6 401 396 (HAUG HEINZ ET AL) 11 June 2002
(2002-06-11)
- D2: DE 197 34 320 A (BAYERISCHE MOTOREN WERKE AG) 18
February 1999 (1999-02-18)
- D3: US-B-6 293 0501 (JOEHNK BENNO) 25 September 2001
(2001-09-25)
- D4: US-A-3 171 156 (LUCIEN PERAS) 2 March 1965
(1965-03-02)

1.2 D5 was not cited in the international search report.

- D5: US-A-2 651 805 (RAY A. LAIBLE) 15 September 1953
(1953-09-15)

2. D5 discloses (cf. column 2, lines 42-51; column 3, lines 1-35; figures 1-3) an inlet brake (22) with a U-shaped receiving element (column 2, line 44) for braking and retaining a vehicle opening part, said brake having all the features of claim 1,

see in particular:

- a rod-like door hinge bracket (6) (column 3, lines 28-29) is braked by means of a clamping effect (column 3, line 4: "cushions") of the lateral brake cheeks (20, 21) which form a continuously tapering clamping receiver (see figures and column 3, line 31: "wedgingly");
- the brake cheeks (20, 21) are sprung relative to one another;
- because the brake consists of an integral leaf spring (22), both the brake cheeks and the central crossbar which connects the brake cheeks are sprung;
- furthermore, the brake fixing means (23, 26) is mounted on the central crossbar.

Consequently, the present application does not satisfy the criterion of PCT Article 33(2) because the subject matter of claim 1 is not novel over the prior art as defined in the Regulations (PCT Rule 64.1 - 64.3).

3. Independent claim 6 and dependent claims 2-5 and 7 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT novelty and inventive step requirements - see documents D1-D4 and the corresponding passages indicated in the search report and D5.

See in particular:

- D5 (column 3, lines 26-30: direct co-operation between rod-like hinge bracket (6) and conical brake (22)) and D2 (automatic opening unit (23) and brake (15)/hinge bracket (3) in a hatchback device (1)) for independent claims 6 and 7;
- D1 for claim 3.